

- (b) positioning the electrode array in contact with tissue to be ablated;
- (c) delivering RF energy through the array to the tissue to cause the tissue to dehydrate; and
- (d) permitting moisture generated during the dehydration of step (c) to pass into the electrode carrying member and away from the tissue.

--33. (NEW) An ablation and/or coagulation apparatus for use in delivering energy to tissue for ablation, the apparatus comprising:

an electrode array carried by an elongate member, the array including a fluid permeable metallized fabric member having insulating and conductive regions thereon, the electrode array configured to permit moisture generated during ablation to pass actively and/or passively into the electrode array and away from underlying tissue;

a source of radio frequency energy electrically coupled to the conductive regions of the array.--

REMARKS

Claims 5-7, 15, 17, and 24 have been amended. New Claims 32 and 33 are added. Claims 1 - 33 are now pending.

I. Prior Art Rejections

A. Rejections Under U.S.C. §102

Claims 1, 3, 8, 16, 22, 25 and 26 have been rejected under 35 U.S.C. §102 as being anticipated by Stern et al, U.S. Patent 5,433,470.

Applicants respectfully submit that the Stern reference fails to disclose or fairly suggest the step of permitting moisture generated during the dehydration of tissue to pass into an electrode carrying member and away from the tissue, as recited in Claims 1, 3 and 8. The

open-cell, porous material mentioned at Stern Col. 5, lines 47-53 is described as being filled with gel or foam, which is critical to the Stern device's ability to deliver energy to the underlying tissue. The reference appears to include no mention or suggestion for permitting, either actively or passively, moisture to pass into the material and away from the tissue.

Likewise, there is no disclosure in Stern of a fluid permeable elastic member configured to permit moisture generated during ablation to pass into the electrode carrying member and away from underlying tissue, as is recited in Claims 16, 22, 25 and 26. For this reason, Claims 1, 3, 8, 16, 22, 25 and 26 are not anticipated by Stern.

Claim 31 stands rejected as being anticipated by Edwards. However, as far as Applicants can see Edwards lacks teaching of "limiting means for selectively limiting lateral expansion of the deployment mechanism and for selectively limiting longitudinal extension of the array from the sheath." Edwards' switch 20 rotates the viewing optics. Switch 21 controls movement of sleeve 14. Switch 22 causes hinge 18 to pivot the balloon 12. Switch 23 controls RF delivery. Switch 24 controls flow of electrolytic solution. As far as Applicant can see, there is no mechanism that allows longitudinal extension of Edwards' electrode from the sheath to be selectively limited so as to be, for example, commensurate with the measured length of a patient's uterus. Accordingly, Claim 31 is not anticipated by Edwards.

B. Rejections Under U.S.C. § 103

Claims 2, 9-14, 18-22 and 27-30 have been rejected as being made obvious by Stern.

As discussed, Stern fails to teach of the step of permitting moisture generated during the dehydration of tissue to pass into an electrode carrying member and away from the tissue, as is recited in Claims 2, 9-14. It also fails to teach the use of a fluid permeable elastic member configured to permit moisture generated during ablation to pass into the electrode carrying member and away from underlying tissue, as is recited in Claims 18-22 and 27-30. Moreover, Applicants can find no suggestion for modifying the Stern method/apparatus to utilize the recited steps/features. Thus Claims 2, 9-14, 18-22 and 27-30 are not made obvious by the teachings of Stern.

With respect to Claims 2, 12 - 14, 18-21, an additional basis for the patentability of the claims resides in the recitation of metallized fabric in the array. Applicants can find no fair suggestion for the utilization of a metallized fabric in the Stern device, and respectfully submit that one of skill in the art would not have considered the metallized fabric to be an obvious design choice on the Stern device.

C. Rejection based on Stern in View of Chin

Claims 4, 23 and 26 have been rejected as being made obvious by Stern in view of Chin. As discussed, Stern fails to teach of the step of permitting moisture generated during dehydration to pass into an electrode

carrying member and away from the tissue, as is recited in Claim 4, and it lacks any teaching of the use of a fluid permeable elastic member configured to permit moisture generated during ablation to pass into the electrode carrying member and away from underlying tissue, as is recited in Claims 23 and 26. These teachings are likewise missing from Chin, which discloses the use of an inflatable balloon that is filled with heated liquid and used for thermal ablation.

Thus, Claims 4, 23 and 26 are not made obvious by the combined teachings of these references.

II. Allowable Subject Matter

Applicants note with appreciation the Examiner's indication that Claims 5-7, 15, 17, and 24 would be allowable if rewritten in independent form. These claims are now independent of the rejected base claims and their allowance is respectfully requested.

III. New Claims 32 and 33

New Claims 32 and 33 recite the use of metallized fabric and thus are allowable on this basis.

IV. Conclusion

For the foregoing reasons, Applicants respectfully submit that

the application is in condition for allowance. Early reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

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